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conclusion. In England, it would seem that the husband is allowed to withhold the amount of the tax on such payments as reimbursement for the tax on that portion of his general income. *Cf. Dalrymple v. Dalrymple*, 39 Scot. L. R. 348.

WAR — STATUS OF ALIEN — ENEMIES IN COURTS OF JUSTICE. — An action was brought by a German subject resident in Germany. Before the case reached the stage of judgment, war broke out between the United States and Germany. *Held*, the action will not be dismissed, but it will be suspended until peace shall be established. *Plettenberg v. Kalmon*, 241 Fed. 605 (District Court, Ga.), and *Stumpf v. Schreiber Brewing Co.*, 242 Fed. 80 (District Court, Western District of New York). See Notes, page 471.

WILLS — CONSTRUCTION — DISPOSITION OF ANNUITY ON DEATH OF ANNUITANT. — Testator left the residue of his estate to trustees to pay part of the income to A. annually, and the rest to B. Distribution of the principal was to be made when certain children reached the age of twenty-one years. A. died before the time for distribution. *Held*, that until time for distribution, income reserved for A. should be added each year to that paid to B. *Norman v. Prince*, 101 Atl. 126 (R. I.).

Upon the death of a beneficiary before the termination of a trust, his income is not paid to his estate, if there were no words of inheritance. *Weston v. Weston*, 125 Mass. 268; *Bates v. Barry*, 125 Mass. 83; *In re Taber* [1882], L. J. Ch. (N. S.) 727. But *cf. In re Follett*, 23 R. I. 409. And the questionable rule, that a lapsed residuary bequest shall not go to increase the rest of the residue, would seem to be outweighed by the strong policy in favor of the rule of construction against a partial intestacy. *Weston v. Weston*, *supra*; *In re Bensen*, 96 N. Y. 499. There is little authority as to whether the lapsed bequest should go to increase the principal of the trust fund, or be added to the income of the other beneficiaries. The latter would seem to be proper, unless there is an express provision to the contrary. *Vigor v. Harwood*, 12 Simons 172; *Wakefield v. Small*, 74 Me. 277; *Butler v. Butler*, 101 Atl. 115 (R. I.). *Cf. Angus v. Noble*, 73 Conn. 56, 46 Atl. 278. It seems that the result reached by the court effectuates the manifest intent of the testator.

For a discussion of another question in this case, see the February number of this REVIEW.

WILLS — EXECUTION — PUBLICATION BY INTERPRETER. — A statute provides that the testator shall "declare" that the instrument is his will to "two attesting witnesses," who must sign at his "request" (1910, Okla. Rev. L. § 8348). Testatrix was a Creek Indian who understood no English. Her declaration and request were interpreted to witnesses who understood no Creek. *Held*, that the will is invalid. *Hill v. Davis*, 167 Pac. 465 (Okla.).

Similar statutory requirements are not uncommon. See 1909, N. Y. Laws, c. 18, § 21. See also 1 JARMAN, WILLS, 6 Am. ed., 112, note 1. The case overrules one decided less than two years previously in the same court. *Pell v. Davis*, 155 Pac. 1132 (Okla.). The decision has the support of a *dictum*. See *Stein v. Wilzinski*, 4 Redf. (N. Y.) 441, 448. *Cf. Hunn v. Case*, 5 N. Y. Sur. 307; *Van Hooser v. Van Hooser*, *ibid.* 365. But there is little authority applicable to the question. Attestation has been defined as "the act of witnessing in its full legal import." See SCHOULER, WILLS, EXECUTORS AND ADMINISTRATORS, 5 ed., § 330. Where there can be a publication, it would seem to follow that there can be an attestation. A will has been held published by signs and sounds of a testator stricken with partial paralysis of the vocal organs. *Lane v. Lane*, 95 N. Y. 494. And where the testator has the power to understand what is said, the declaration clearly may be made by a third party. See *Heath v. Cole*, 15 Hun (N. Y.) 100, 103. See also *Robbins v. Robbins*, 50 N. J. Eq. 742, 744. In cases where there is a publication by an interpreter, it be-